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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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GROUP 3600

Application Number: 09/916,528
Filing Date: July 27, 2001
Appellant(s): SALAS ET AL.

Jong Andrew H. Park, Reg. No. 56,917
Van Pelt, Yi & James, LLP.
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 10, , 2007 appealing from the

Office action mailed December 27, 2005.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1-4, 6-7, 9-11 and 13-14.

Claims 5, 8, and 15-57 had been previously been canceled.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

A substantially correct copy of appealed claims 1-4, 6-7, 9-11 and 13-14 appears

on page 6 of the Appendix to the appellant's brief. The minor errors are as follows: No

mention is made of the status of the missing claims as per section (3), above.

(8) Evidence Relied Upon

5,553,143	Ross et al	9-1996
5,390,297	Barber et al	02-1995
5,940,504	Griswold	08-1999
5,014,234	Edwards, Jr.	05-1991
6,088,451	He et al	07-2000

Smartsoft - http://www.smartsoft.com; pages from 1996 website

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 4, 6-7, 10-11 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Barber et al, U.S. Patent N. 5,390,297 in view of Griswold, U.S.

Patent No. 5,940,504 and Ross et al, U.S. Patent No. 5,553,143.

As per Claim 1, Barber et al disclose a method for controlling access to a

product, the method comprising:

- receiving a license string that controls access to the product, the license string

being generated using a cryptographic process by encoding information

corresponding to a license identifier information (Col. 6, lines 43-60; Col. 9 line

67-Col. 10 line 7);

- verifying the license string by decoding the license string to identify the

information (Col. 10, lines 1-8) and determining that the information is within a

valid range (Col. 10, lines 1-15); and

- allowing access to the product based on verifying the license string (Col. 10,

lines 1-27).

Barber et al, however, fails to explicitly disclose wherein the encoded information

corresponds to at least one of 1) a date of creation of the product, 2) a version of the

product, 3) a date of request for the product, and 4) a date of generation of the license

string. Griswold discloses a licensing management system and further teaches sending

datagrams to a licensor's site to request authorization for access to a product wherein

the datagram includes encrypted information corresponding to a version of the product

such as a product model number (Figures 2 and 4; Col. 5, lines 45-50; Col. 6, lines 44-

48; Col. 7, line 65Col. 8 line 5). Griswold further discloses decrypting the information

and validating this information to allow access to the product after verifying the license

has not expired (Col. 9 line 46-Col. 10 line 36). It would have been obvious to one of

ordinary skill in the art at the time of applicant's invention to modify the method of

Barber et al and encode any information that corresponds to a license such as a version

or model number of the product under control of the license in lieu of a license

identification information as taught by Griswold. One would have been motivated to use

any type of equivalent identifier in order to effectively identify the license or the product

being controlled by the license. Griswold provides motivation by indicating that the types

of information within the license database may require other types than specifically

shown (Col. 6 line 63-Col. 7 line 3).

Additionally, attention is directed to Barber et al (US 5,390,297) at, e.g. col 10,

lines 1-27: ". . . the license manager 25A then determines whether the current date is

later than the expiration date of the inactive license 27 (see FIG. 2B). If so, then the

license 27 has "expired" and the license manager 25A takes the path 33 and returns to

the next step 34. If not expired, the license manager 25A then takes a path 35 indicating

that the license 27 is inactive, current and valid. The path 35 leads to step 36 that now

marks such license 27 as being "active" or "in use" in response to the new request to

use the computer program 24A (see item 2 in file 22A, FIG. 2B). This prevents the

inactive, current, valid license 27 from being assigned to any other node 12. The license

manager 25A then takes a path 37 to a step 38 that returns a status to the computer

program 24A indicating that it is authorized to run, which enables the computer program

24A to run on the CPU 18 at the local node 14." Obviously, in determining by date

whether the license is valid, the date of creation of the license, length of license validity

and expiration date of license are determined and thus a range of dates is determined.

Further, it would be obvious to also include such data as dates of requesting the product

and date of creation of product as alternate license information for cryptographic

purposes.

Barber et al further fail to disclose wherein the data encoded to generate the

license string comprises a license data and a validation data and verifying the license

string further includes (i) decoding the license string to obtain the license data and the

validation data, (ii) computing a generated validation data based at least in part on at

least a portion of the decoded license data, and (iii) comparing the decoded validation

data with the generated validation data. Ross et al disclose a method for electronic

licensing and teach a method of validating a license by decoding the license string to

obtain the license data and the validation data (Col. 9, lines 1-11; Col. 7, lines 40-65;

decrypting the signature to obtain the clear text (license data) and the validation data

(message digest), computing a generated validation data based at least in part on at

least a portion of the decoded license data (Col. 9, lines 1-11; Col. 7, lines 40-65;

applying the clear text to an algorithm to generate the message digest) and comparing

the decoded validation data with the generated validation data (Col. 9, lines 1-11; Col.

7, lines 40-65; comparing the two message digests). Accordingly, it would have been

obvious to one of ordinary skill in the art at the time of applicant's invention to modify the

method of Barber et al and include the ability to validate the license as taught by Ross

et al in an effort to ensure that the license is valid and has not been altered or tampered

with in any way. Using digital signatures and hashing algorithms to generate message

digests has long been known in the encryption art as an effective method for validating

a message or any type of text or data.

As per Claims 4 and 6-7, Barber et al and Griswold do not specifically disclose

that the encoding method includes using block ciphers or character text strings.

Examiner takes Official Notice that these encoding methods are well known in the

cryptography arts and it would have been obvious to one having ordinary skill in the art

to use block ciphers and character text strings in order to take advantage of well known encoding methods as a matter, of convenience. With respect to claim 7, It is well known in the computer arts to "keep it simple" with respect to user interaction with computer programs. The capital letters 0 and I are easily confused with the numbers 0 and 1 that add to the complexity of reading what may be a long string of characters.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to exclude the characters capital 0, capital I, and the numbers 0 and 1 from the License string generated by the invention of Barber et al ('297) in order to minimize user confusion in the entry of the license string.

As per Claim 10, Barber et al ('297) further discloses the license string controls access to a single facility, see Column 8, lines 40-41.

As per Claim 11, Barber et al ('297) further discloses the license string controls access to multiple facilities, see Column 8, lines 20-48.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al, U.S. Patent No. 5,390,297, Griswold, U.S. Patent No. 5,940,504 and Ross et al, U.S. Patent No. 5,553,143 as applied to claim 1 above, and further in view of Smartsoft (Product Sales and Upgrade Sales).

As per Claims 2-3, Barber et al further disclose that the customer supplies encrypted license string information, however, fails to specifically disclose that this is provided using a dialog box or entry field. Smartsoft discloses using a dialog box or entry field to provide the license string (Page 4). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of

Barber et al and provide this license string any number of ways including using a dialog box or entry field as taught by Smartsoft in an effort to provide convenience and flexibility to the end user by using a web based system.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al, U.S. Patent No. 5,390,297, Griswold, U.S. Patent No. 5,940,504 and Ross et al, U.S. Patent No. 5,553,143 as applied to claim 1 above, and further in view of He et al, U.S. Patent No. 6,088,451.

As per Claim 9, Barber et al ('297) does not specifically disclose wherein the license string includes a first checksum and verifying the license string comprises generating a second checksum based on the information and comparing the second checksum with the first checksum.

He et al (451) teaches the use of a checksum, a well known method for data string validation, see Column 10, lines 18-47, for the benefit of protecting information from being accidentally or maliciously changed and ensuring correct communication between user and the network. Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to include the checksum validation taught by He et al ('451) in the invention of Barber et al ('279) for the benefit of protecting information from being accidentally or maliciously changed and ensuring correct communication between user and the network.

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al, U.S. Patent No. 5,390,297, Griswold, U.S. Patent No. 5,940,504 and Ross

et al, U.S. Patent No. 5,553,143 as applied to claim 1 above, and further in view of

Edwards, Jr., U.S. Patent No. 5,014,234.

As per Claim 13, Barber et al ('297) does not specifically disclose wherein access

to the product is allowed for only a predetermined period of time in the absence of

verifying the license string. Edwards, Jr., ('234) teaches limited usage for

predetermined period of time before the license string is entered, see Column 1, line 25

- Column 2, line 3 for the benefit of providing a "try before you buy" license feature and

still allow protection of the software.

Therefore, it would have been obvious to one of ordinary skill at the time the

invention was made to modify the invention of Barber et al ('297) to allow usage for a

predetermined period of time before the license string is entered providing a "try before

you buy" license feature and still allow protection of the software.

As per Claim 14, Barber et al ('297) does not specifically disclose entry of the

license string extends the predetermined time for which the product will function.

Edwards Jr ('234) teaches entry of the defuse number extends the usage for

predetermined period of time, see Column 8, lines 16 - 39 for the benefit of allowing

continued use of the product and still allow protection of the software. Therefore, it

would have been obvious to one of ordinary skill at the time the invention was made

to modify the invention of Barber et al ('297) to allow usage for a predetermined period

of time after the license string is entered for the benefit of allowing continued use of the

product and still allow protection of the software.

Please note that, in paragraph 26 of the Final Rejection of December 27, 2005,

Examiner points out that Official Notice was used in previous office actions to indicate

that it is old and well known in the art to use encoding methods such as block ciphers or

character text strings. Examiner also indicated that it is well known in the computer arts

to 'keep it simple' with respect to user interaction with computer programs. The capital

letters O and I are easily confused with the numbers 0 and 1 that add to the complexity

of reading what may be a long string of characters. Since applicant has not attempted to

traverse this Official Notice statement, examiner is taking the common knowledge or

well-known statement to be admitted prior art. A similar note may be found in the

Nonfinal Rejection of June 8, 2005 at paragraph 16.

(10) Response to Argument

First Issue

Appellant argues, with respect to claim 1, the sole independent claim, that the

cited prior art does not teach or suggest 'encoding date information "in a license string

being generated using a cryptographic process" as recited in claim 1.'

Examiner respectfully disagrees and directs attention to the following:

Barber et al (US 5,390,297) at, e.g. col 10, lines 1-27: ". . . the license manager

25A then determines whether the current date is later than the expiration date of the

inactive license 27 (see FIG. 2B). If so, then the license 27 has "expired" and the

license manager 25A takes the path 33 and returns to the next step 34. If not expired,

the license manager 25A then takes a path 35 indicating that the license 27 is inactive,

current and valid. The path 35 leads to step 36 that now marks such license 27 as being

"active" or "in use" in response to the new request to use the computer program 24A

(see item 2 in file 22A, FIG. 2B). This prevents the inactive, current, valid license 27

from being assigned to any other node 12. The license manager 25A then takes a path

37 to a step 38 that returns a status to the computer program 24A indicating that it is

authorized to run, which enables the computer program 24A to run on the CPU 18 at

the local node 14." Obviously, in determining by date whether the license is valid, the

date of creation of the license, length of license validity and expiration date of license

are determined and thus a range of dates is determined. Further, it would be obvious to

also such data as dates of requesting the product and date of creation of product as

alternate license information for cryptographic purposes.

Additionally, Barber at col 8 ln 61-65: ""To authorize the license 27, the

installation program 17 reads the UID of the license file 22A from the disk 19 and

encrypts it to form a first authorization code, referred to as C1." (emphasis added).

Attention is further directed to Griswold (US 5,390,297), disclosing a licensing

management system and further teaching sending datagrams to a licensor's site to

request authorization for access to a product wherein the datagram includes encrypted

information corresponding to a version of the product such as a product model number

(Figures 2 and 4; Col. 5, lines 45-50; Col. 6, lines 44-48; Col. 7, line 65Col. 8 line 5).

Griswold further disclose decrypting the information and validating this information to

allow access to the product after verifying the license has not expired (Col. 9 line 46-

Col. 10 line 36). It would have been obvious to one of ordinary skill in the art at the time

of applicant's invention to modify the method of Barber et al and encode any information

that corresponds to a license such as a version or model number of the product under control of the license in lieu of a license identification information as taught by Griswold. One would have been motivated to use any type of equivalent identifier in order to effectively identify the license or the product being controlled by the license. Griswold provides motivation by indicating that the types of information within the license database may require other types than specifically shown (Col. 6 line 63-Cal. 7 line 3).

Also with respect to the said encryption, examiner had taken Official Notice "that these encoding methods are well known in the cryptography arts and it would have been obvious to one having ordinary skill in the art to use block ciphers and character text strings in order to take advantage of well known encoding methods as a matter, of convenience." (Final Rejection of December 27, 2005 at par 12; Nonfinal Rejection of June 8, 2005, at page 7, second paragraph; Final Rejection of October 12, 2004, at page 5, second paragraph). Further, as above, in paragraph 26 of the Final Rejection of December 27, 2005, Examiner points out that Official Notice was used in previous office actions to indicate that it is old and well known in the art to use encoding methods such as block ciphers or character text strings. Examiner also indicated that it is well known in the computer arts to 'keep it simple' with respect to user interaction with computer programs. The capital letters O and I are easily confused with the numbers 0 and 1 that add to the complexity of reading what may be a long string of characters. Since applicant has not attempted to traverse this Official Notice statement, examiner is taking the common knowledge or well-known statement to be admitted prior art. A similar note may be found in the Nonfinal Rejection of June 8, 2005 at paragraph 16.

Because this factual finding is now considered "admitted prior art", the examiner

respectfully requests the Board to take this application as is (*i.e.*, it is of record).   The

examiner respectfully requests states that the Board must consider all evidence of

record and has limited authority to change what is, and what is not, of record.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Cristina Owen Sherr

Patent Examiner, Au 3621

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Appeal Chart

Claim 1 and Barber (US 5,390,297), Griswold (US 5,940,504), and Ross et al, U.S.

Patent No. 5,553,143

Clause No.	Claim 1	<u>Barber (US 5,390,297)</u>
1	Computer = node A method for controlling access to a product, the method comprising: - receiving at a computer a license string that controls access to the product, the license string being generated using a cryptographic process by encoding information corresponding to a license identifier information	col 10, lines 1-27: ". . . the license manager 25A then determines whether the current date is later than the expiration date of the inactive license 27 (see FIG. 2B). If so, then the license 27 has "expired" and the license manager 25A takes the path 33 and returns to the next step 34. If not expired, the license manager 25A then takes a path 35 indicating that the license 27 is inactive, current and valid. The path 35 leads to step 36 that now marks

Clause No.	Claim 1	Barber (US 5,390,297)
		such license 27 as being "active" or "in use" in response to the new request to use the computer program 24A (see item 2 in file 22A, FIG. 2B). This prevents the inactive, current, valid license 27 from being assigned to any other node 12. The license manager 25A then takes a path 37 to a step 38 that returns a status to the computer program 24A indicating that it is authorized to run, which enables the computer program 24A to run on the CPU 18 at the local node 14."
2	verifying the license string by decoding the license string to identify the information	(Col. 10, lines 1-8) Obviously, in determining by date whether the license is valid, the date of creation of the license, length of license validity and expiration date of license are determined and thus a range of dates is determined. Further, it would be obvious to also such data as dates of requesting the product and date of creation of product as alternate license information for cryptographic purposes.

Clause No.	Claim 1	Barber (US 5,390,297)
3	verifying the license string by decoding the license string to identify the information (Col. 10, lines 1-8) and determining that the information is within a valid range (Col. 10, lines 1-15); and	(see above) (Col. 10, lines 1-8) (Col. 10, lines 1-15);
4	allowing access to the product based on verifying the license string	See above (Col. 10, lines 1-27).
5	(datagram = encoded information)

disclose wherein the encoded information corresponds to at least one of 1) a date of creation of the product, 2) a version of the product, 3) a date of request for the product, and 4) a date of generation of the license string. | **Griswold (US 5,940,504)**

Griswold discloses a licensing management system and further teach sending datagrams to a licensor's site to request authorization for access to a product wherein the datagram includes encrypted information corresponding to a version of the product such as a product model number (Figures 2 and 4; Col. 5, lines 45-50; Col. 6, lines 44-48; Col. 7, line 65Col. 8 line 5).

Griswold further disclose decrypting the |

Clause No.	Claim 1	Barber (US 5,390,297)
		information and validating this information to allow access to the product after verifying the license has not expired (Col. 9 line 46-Col. 10 line 36).

Griswold further disclose decrypting the information and validating this information to allow access to the product after verifying the license has not expired (Col. 9 line 46-Col. 10 line 36). |
| 6 | wherein the data encoded to generate the license string comprises a license data and a validation data and verifying the license string further includes (i) decoding the license string to obtain the license data and the validation data, (ii) computing a generated validation data based at least in part on at least a portion of the decoded license data, and (iii) comparing the decoded validation data with the generated validation data. | **Ross et al, U.S. Patent No. 5,553,143.** a method for electronic licensing and teach a method of validating a license by decoding the license string to obtain the license data and the validation data (Col. 9, lines 1-11; Col. 7, lines 40-65;

decrypting the signature to obtain the clear text (license data) and the validation data (message digest)), computing a generated validation data based at least in part on at least a portion of the |

Clause No.	Claim 1	Barber (US 5,390,297)
		decoded license data (Col. 9, lines 1-11; Col. 7, lines 40-65); applying the clear text to an algorithm to generate the message digest) and comparing the decoded validation data with the generated validation data (Col. 9, lines 1-11; Col. 7, lines 40-65; comparing the two message digests). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Barber et al and include the ability to validate the license as taught by Ross et al in an effort to ensure that the license is valid and has not been altered or tampered with in any way. Using digital signatures and hashing algorithms to generate message digests has long been known in the encryption art as an effective method for validating a message or any type of text or data.